

CORPORATION OF THE MUNICIPALITY OF PORT HOPE
BY-LAW NO. 71/2005

Being a By-law to Establish a Program to Provide Tax Reductions or Refunds in Respect of Eligible Brownfield Heritage Property

WHEREAS the Council of the Municipality of Port Hope is authorized by Section 365.2 of the Municipal Act, S.O. 2001, c.25 as amended to pass by-laws providing for the establishment of a program to provide tax reductions or refunds in respect of Eligible Heritage properties;

AND WHEREAS the Council of the Municipality of Port Hope deems it advisable and in the public interest to provide financial assistance on the terms set out in this by-law as an incentive to encourage property owners to renovate and restore Eligible Brownfield Heritage Properties;

NOW THEREFORE the Council of the Municipality of Port Hope enacts as follows:

1. DEFINITIONS:

In this By-law:

- 1.1. "Brownfield Property" means industrial lands within the Municipality for which a Phase II environmental site assessment has been conducted, that, as of the date the Phase II environmental site assessment was completed, did not meet the standards that must be met under subparagraph 4i of subsection 168.4 (1) of the Environmental Protection Act to permit a record of site condition to be filed under that subsection in the Environmental Site Registry.
- 1.2. "Council" means the elected Council of the Municipality of Port Hope.
- 1.3. "Committee" means the Heritage Incentive Approval Committee established pursuant to the terms of this By-law.
- 1.4. "Eligible Brownfield Heritage Property" means an industrial property or portion of an industrial property:
 - 1.3.1 that is deemed to be a Brownfield Property and that is designated under Part IV of the Ontario Heritage Act or is part of a heritage conservation district under Part V of the Ontario Heritage Act; and
 - 1.3.2 that is subject to an Easement Agreement with the Municipality under Section 22 of the Act; or an Easement Agreement with the Ontario Heritage Foundation under Section 22 of the Act; or an Agreement with the Municipality respecting the preservation and maintenance of property.
- 1.5. "Heritage Brownfield Restoration Incentive Program" means a program to provide tax reductions or refunds in respect of Eligible Brownfield Heritage Property.
- 1.6. "Heritage Brownfield Restoration Incentive Grant" means a credit against real property taxes described in this By-law made by the Municipality pursuant to the Heritage Brownfields Restoration Incentive Program.
- 1.7. "Lower Tier Municipality" has the same meaning as in Section 1.1 of the Municipal Act.

- 1.8. "Municipality" means the Corporation of the Municipality of Port Hope.
- 1.9. "Property" shall include the land, buildings and structures.
- 1.10. "Reassessment" means any increase in the assessed value of an Eligible Brownfield Heritage Property as a direct result of the alteration or improvement of any building or structure or any portion thereof undertaken as a restoration project approved by Council in accordance with the provisions of this By-law.
- 1.11. "Repayable Loan" means a Heritage Brownfield Restoration Incentive Grant which has been automatically converted to a Repayable Loan for any of the reasons set out in Section 5 of this By-law.
- 1.12. "Upper-tier Municipality" has the same meaning as in Section 1.1 of the Municipal Act.

2. ENACTMENT

- 2.1 The Municipality hereby establishes a "Heritage Brownfield Restoration Incentive Program" and authorizes the Director of Finance/Treasurer to administer the program in accordance with the terms of this By-law.
- 2.2 The Heritage Brownfield Restoration Incentive Program shall continue at the pleasure of Council and may be terminated at anytime, without prior notice, by the passage of a duly enacted by-law by Council.
- 2.3 All Heritage Brownfield Restoration Incentive Grants or repayable loans made and outstanding prior to the termination of the Heritage Brownfield Restoration Incentive Program shall continue in accordance with the terms and conditions set out in this By-law until their respective expiration dates as established at the time of such grants or loans.
- 2.4 This By-law and the Heritage Brownfield Restoration Incentive Program shall only apply to Eligible Brownfield Heritage Properties.
- 2.5 Council hereby authorizes the establishment of a Committee which shall review applications pursuant to the provisions of this By-law and which shall be comprised of a total of six members and shall include a representative of the Architectural Conservancy of Ontario (Port Hope Branch), a representative of the Port Hope Chamber of Commerce, a representative from the Heritage Business Improvement Area, a representative of the Heritage Port Hope Advisory Committee, a representative from the Municipality at large, and a Member of Council

3. THE APPLICATION

- 3.1 An Owner of an Eligible Brownfield Heritage Property in the Municipality who has completed a Heritage Brownfield restoration project approved by the Committee, may apply to Council to obtain the tax reduction or refund if the owner submits the application not later than the last day of February in the year following the first year for which the owner is seeking to obtain the tax reduction or refund.

- 3.2 No Heritage Brownfield Restoration Incentive Grant shall be made by the Municipality unless all of the following conditions have been satisfied or complied with, namely:
- 3.2.1 A restoration project plan approved by the Municipality has been completed for the alteration or improvement of any building or structure on the property.
- 3.2.2 The real property taxes are paid in full.
- 3.2.3 There has been a reassessment of the property for which the Heritage Brownfield Restoration Incentive Grant is desired based on an increase in the value of the property that is a direct result of remediation/restoration project for the property approved by the Municipality and such reassessment to be provided by the Municipal Property Assessment Corporation.
- 3.2.4 To be eligible for the grant the eligible property must be restored in accordance with the restoration project plan as approved by the Municipality under Section 3.2.1.
- 3.2.5 The owner of the Eligible Brownfield Heritage Property has signed a written acknowledgement and delivered it to the Director of Finance/Treasurer substantially in the form attached here to as Schedule "A", and has executed an Easement or Agreement satisfactory to the Municipality, referenced in Section 1.3.2 of this By-law.

4. AMOUNT OF TAX REDUCTION

- 4.1 The amount of the annual Heritage Brownfield Restoration Incentive Grant to any qualifying property owner shall be calculated:
- 4.1.1 At a rate of 40% of the amount of the increase in the Municipal portion of the real property taxes for such property that is the direct result of reassessment due to an approved restoration project to a maximum of \$10,000; and
- 4.1.2 In any year after the first year for which an application is made for a reduction or refund pursuant to the provisions of this By-law, an annual reduction or refund in an amount equal to Five (5%) Percent of the increase in real property taxes arising as a direct result of reassessment due to an approved restoration project for a period not exceeding eight years after the year in which the first application for the refund or reduction in tax has been made.
- 4.1.3 At a rate of 40% of the amount of the increase in the Education portion of the real property taxes for such property that is the direct result of reassessment due to an approved restoration project.
- 4.1.4 In any year after the first year for which an application is made for a reduction or refund pursuant to the provisions of this By-law, an annual reduction or refund in an amount equal to Five (5%) Percent of the increase in the education portion of the real property taxes arising as a direct result of reassessment due to an approved restoration project for a period not exceeding eight years after the year in which the first application for the refund or reduction in tax has been made.
- 4.2 The Heritage Brownfield Restoration Incentive Grant calculated as aforesaid shall be made by the Municipality by providing a credit against the property owner's real property taxes annually for the maximum period and subject to the conditions set out in Section 4.1.1, 4.1.2, 4.1.3 and 4.1.4 of this By-law.

- 4.3 Any annual increase or decrease in the tax rate levied by the Municipality during the term of the Heritage Brownfield Restoration Incentive Grant shall be included in the amount of the Grant.
5. REPAYABLE LOAN
- 5.1 In the event that a property in respect of which a Heritage Brownfield Restoration Incentive Grant has been made by the Municipality pursuant to this By-law, is sold, transferred or otherwise disposed of within three years of the making of the first annual grant, or the Owner demolishes the property or breaches the terms of an Agreement described in clause 1.3.2 of this By-law, the total of all Heritage Brownfield Restoration Incentive Grants made by the Municipality to the date of sale, transfer or other disposition of the property shall be deemed to automatically (without further action or steps being taken) become a repayable loan and shall be paid by the owner of such property to the Municipality in accordance with the provisions of Section 5.3 of this By-law.
- 5.2 In the event that real property taxes are not paid in full on December 31st of any year for a property which has received an annual Heritage Brownfield Restoration Incentive Grant then the Heritage Brownfield Restoration Incentive Grant for that year shall automatically (without further action or steps being taken) become a repayable loan and shall be paid by the owner of such property to the Municipality in accordance with the provisions of Section 5.3 of this By-law.
- 5.3 Where a Heritage Brownfield Restoration Incentive Grant has been converted to a repayable loan, the amount of the loan together with interest at a rate equal to the lowest prime rate reported to the Bank of Canada by any of the banks listed in Schedule I to the Bank Act of Canada calculated from the date or dates the tax reductions or refunds were provided, shall become forthwith due and payable in full and in the event of default may be added by the Clerk of the Municipality to the Collector's Roll and collected in like manner as municipal taxes pursuant to Section 349 and Section 350 of the Municipal Act, 2001. Such amount and interest shall, until payment thereof, be a lien or charge upon the property in respect of which the loan was made.
6. OTHER
- 6.1 An Owner of an Eligible Brownfield Heritage Property may retain the benefit of any tax reduction or refund obtained under this By-law, despite the provisions of any lease or other agreement relating to the property.
- 6.2 Each section of this By-law is an independent section, and the holding of any section or part of it to be void or ineffective for any cause shall not be deemed to affect the validity of any other sections or parts of it.
7. That By-law No. 64/2002 for the Corporation of the Municipality of Port Hope is hereby repealed.
8. This By-law shall come into force and effect on the passing thereof.

READ a FIRST, SECOND and THIRD time and finally passed in Open Council this 8th day of November 2005. .

Rick Austin, Mayor

Frances M. Aird, Clerk

Schedule A
To By-law 71/2005

ACKNOWLEDGEMENT AND AGREEMENT

The undersigned, being the owner of the property municipally known as

Hereby acknowledges having received, read and understood a copy of By-law No. _____, being a by-law to establish a Brownfield Heritage Incentive Program for the Industrial properties in the Municipality, and agrees to accept, comply with and be bound by all the provisions of By-law No. _____ as a condition of qualifying for the Brownfield Heritage Incentive Program.

Dated at Port Hope this day of , 20__

(Name of Owner)